

Internal Revenue Service, Treasury

§ 1.367(e)-0

(ii) Section 1563 shall apply (for purposes of section 267(d)), without regard to section 1563(b)(2).

(i) *Effective date.* Except as specifically provided to the contrary elsewhere in this section, this section applies to transfers occurring after December 31, 1984.

[T.D. 8087, 51 FR 17953, May 16, 1986, as amended by T.D. 8770, 63 FR 33568, June 19, 1998]

§ 1.367(e)-0 Outline of §§ 1.367(e)-1 and 1.367(e)-2.

This section lists captioned paragraphs contained in §§ 1.367(e)-1 and 1.367(e)-2 as follows:

§ 1.367(E)-1 DISTRIBUTIONS DESCRIBED IN SECTION 367(E)(1).

- (a) Purpose and scope.
- (b) Gain recognition.
 - (1) General rule.
 - (2) Stock owned through partnerships, disregarded entities, trusts, and estates.
 - (3) Gain computation.
 - (4) Treatment of distributee.
- (c) Nonrecognition of gain.
- (d) Determining whether distributees are qualified U.S. persons.
 - (1) General rule—presumption of foreign status.
 - (2) Non-publicly traded distributing corporations.
 - (3) Publicly traded distributing corporations.
 - (i) Five percent shareholders.
 - (ii) Other distributees.
 - (4) Qualified exchange or other market.
 - (e) Reporting under section 6038B.
 - (f) Effective date.

§ 1.367(E)-2 DISTRIBUTIONS DESCRIBED IN SECTION 367(E)(2).

- (a) Purpose and scope.
 - (1) In general.
 - (2) Nonapplicability of section 367(a).
- (b) Distribution by a domestic corporation.
 - (1) General rule.
 - (i) Recognition of gain and loss.
 - (ii) Operating rules.
 - (A) General rule.
 - (B) Overall loss limitation.
 - (I) Overall loss limitation rule.
 - (2) Example.
 - (C) Special rules for built-in gains and losses attributable to property received in liquidations and reorganizations.
 - (iii) Distribution of partnership interest.
 - (A) General rule.
 - (B) Gain or loss calculation. [Reserved]
 - (C) Basis adjustments.
 - (D) Publicly traded partnerships.
 - (2) Exceptions.

(i) Distribution of property used in a U.S. trade or business.

- (A) Conditions for nonrecognition.
- (B) Qualifying property.
- (C) Required statement.
- (I) Declaration and certification.
- (2) Property description.
- (3) Distributee identification.
- (4) Treaty benefits waiver.
- (5) Statute of limitations extension.
- (D) Failure to file statement.
- (E) Operating rules.
 - (I) Gain or loss recognition by the foreign distributee corporation.
 - (i) Taxable dispositions.
 - (ii) Other triggering events.
 - (2) Gain recognition by the domestic liquidating corporation.
 - (i) General rule.
 - (ii) Amended return.
 - (iii) Interest.
 - (iv) Joint and several liability.
 - (3) Schedule for property no longer used in a U.S. trade or business.
 - (4) Nontriggering events.
 - (i) Conversions, certain exchanges, and abandonment.
 - (ii) Amendment to Master Property Description
 - (5) Nontriggering transfers to qualified transferees.
 - (ii) Distribution of certain U.S. real property interests.
 - (iii) Distribution of stock of domestic subsidiary corporations.
 - (A) Conditions for nonrecognition.
 - (B) Exceptions when the liquidating corporation is a U.S. real property holding corporation.
 - (C) Anti-abuse rule.
 - (D) Required statement.
 - (3) Other consequences.
 - (i) Distributee basis in property.
 - (ii) Reporting under section 6038B.
 - (iii) Other rules.
 - (c) Distribution by a foreign corporation.
 - (1) General rule—gain and loss not recognized.
 - (2) Exceptions.
 - (i) Property used in a U.S. trade or business.
 - (A) General rule.
 - (B) Ten-year active U.S. business exception.
 - (C) Required statement.
 - (D) Operating rules.
 - (ii) Property formerly used in a U.S. trade or business.
 - (3) Other consequences.
 - (i) Distributee basis in property.
 - (ii) Other rules.
 - (d) Anti-abuse rule.
 - (e) Effective date.

[T.D. 8834, 64 FR 43075, Aug. 9, 1999]